

BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SOLENA AMBER CLEMENTS

218 West Valerio Street, Apt B

Santa Barbara, CA 93041

Occupational Therapist Assistant

Certificate No. OTA 1504

Respondent.

Case No. OA2008-27

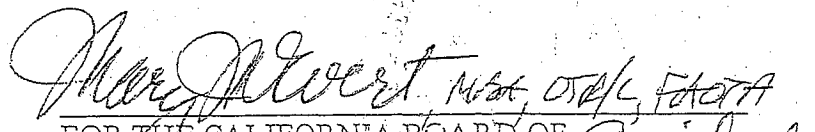
OAH No. 2009120394

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order are hereby adopted by the California Board of Occupational Therapy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 1, 2010.

It is so ORDERED.


FOR THE CALIFORNIA BOARD OF
OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
President

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
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8 BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. OA2008-27

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13 218 West Valerio Street, Apt B
Santa Barbara, CA 93041
14 Occupational Therapist Assistant
Certificate No. OTA 1504

OAH No. 2009120394

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.
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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Heather Martin (Complainant) is the Executive Officer of the California Board of
22 Occupational Therapy. She brought this action solely in her official capacity, and is represented
23 in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by
24 Brian G. Walsh, Deputy Attorney General.

25 2. Respondent Solena Amber Clements (Respondent) is representing herself in this
26 proceeding and has chosen not to exercise her right to be represented by counsel.

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1 3. On or about October 14, 2005, the California Board of Occupational Therapy (Board)
2 issued Occupational Therapist Assistant Certificate No. OTA 1504 (the certificate) to
3 Respondent. The certificate was in full force and effect at all times relevant to the charges
4 brought in Accusation No. OA2008-27, and will expire on August 31, 2011, unless renewed.

5 JURISDICTION

6 4. Accusation No. OA2008-27 (the Accusation) was filed before the Board, and is
7 currently pending against Respondent. The Accusation and all other statutorily required
8 documents were properly served on Respondent on October 19, 2009, and Respondent timely
9 filed her Notice of Defense contesting the Accusation. A copy of the Accusation is attached as
10 exhibit A and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, and understands, the charges and allegations contained
13 in the Accusation. Respondent has also carefully read, and understands, the effects of this
14 Stipulated Settlement and Disciplinary Order.

15 6. Respondent is fully aware of her legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 her own expense; the right to confront and cross-examine the witnesses against her; the right to
18 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
19 compel the attendance of witnesses and the production of documents; the right to reconsideration
20 and court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Occupational Therapist Assistant Certificate No. OTA 1504, issued to Respondent, is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws and regulations governing the practice of occupational therapy in California. Respondent shall submit, in writing, a full detailed account of any and all violations of the law to the Board within five (5) days of occurrence.

2. **Compliance with Probation and Quarterly Reporting.** Respondent shall fully comply with the terms and conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with probation. Respondent, within ten (10) days of completion of the quarter, shall submit quarterly written reports to the Board on a Quarterly Report of Compliance form obtained from the Board.

3. **Personal Appearances.** Upon reasonable notice by the Board, Respondent shall report to and make personal appearances at times and locations as the Board may direct.

4. **Notification of Address and Telephone Number Change(s).**

Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of her new address and any change in work and/or home telephone numbers.

5. **Tolling for Out-of-State Practice, Residence or In-State Non-Practice.**

In the event Respondent should leave California to reside or to practice outside the State for more than thirty (30) days, Respondent shall notify the Board or its designee in writing within ten (10) days of the dates of departure and return. All provisions of probation other than the quarterly report requirements, examination requirements, and education requirements, shall be held in abeyance until Respondent resumes practice in California. All provisions of probation shall recommence on the effective date of resumption of practice in California.

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1 6. **Notification to Employer(s).** If currently employed, no later than the effective date
2 of the Decision, Respondent shall notify her employer of the probationary status of her license.
3 This notification shall be made by providing her employer with a copy of Accusation
4 No. OA2008-27, this Stipulated Settlement, and the Board's Decision and Order.

5 During the entire period of probation, prior to accepting any offer of employment for a
6 position in any health care profession in any capacity, Respondent shall notify the prospective
7 employer of the probationary status of her license. This notification shall be made by providing
8 the prospective employer with a copy of Accusation No. OA2008-27, this Stipulated Settlement,
9 and the Board's Decision and Order.

10 Respondent shall cause each health care employer to submit quarterly reports to the Board.
11 The reports shall be on a form provided by the Board, shall include a performance evaluation and
12 such other information as may be required by the Board.

13 Respondent shall notify the Board, in writing, within five (5) days of any change in
14 employment status. Respondent shall notify the Board, in writing, within five (5) days if she is
15 terminated from any occupational therapy or health care related employment with a full
16 explanation of the circumstances surrounding the termination.

17 7. **Employment Requirements and Limitations.** During probation, Respondent shall
18 work in her licensed capacity in the State of California. This practice shall consist of no less than
19 (6) continuous months and of no less than twenty (20) hours per week.

20 While on probation, Respondent shall not work for a registry or in any private duty
21 position, except as approved, in writing, by the Board. Respondent shall work only on a regularly
22 assigned, identified, and pre-determined work site(s) and shall not work in a float capacity except
23 as approved, in writing, by the Board.

24 8. **Supervision Requirements.** Respondent shall obtain prior approval from the Board,
25 before commencing any employment, regarding the level of supervision provided to Respondent
26 while employed as an occupational therapist or occupational therapy assistant.

27 Respondent shall not function as a supervisor during the period of probation except as
28 approved, in writing, by the Board.

1 9. Continuing Education Requirements. Respondent shall complete 12 hours of Law
2 and Ethics continuing education courses. Continuing education shall be completed within six (6)
3 months of the effective date of the decision and shall be in addition to the professional
4 development activities required for license renewal. Within thirty (30) days of the effective date
5 of the Board's decision, Respondent shall submit a written plan to comply with this requirement.
6 The Board shall approve such plan prior to enrollment in any course of study. Respondent is
7 responsible for all costs of required continuing education. Upon successful completion of the
8 course work, Respondent shall send the original certificate(s) of completion to the Board within
9 thirty (30) days of completion of the course(s). Respondent shall send the original certificate(s)
10 to the Board by certified mail, return receipt requested.

11 10. Maintenance of Valid License. Respondent shall, at all times while on probation,
12 maintain an active current license with the Board, including any period during which license is
13 suspended or probation is tolled.

14 11. Cost Recovery Requirements. Pursuant to Business and Professions code
15 section 125.3, Respondent shall reimburse the Board for its reasonable costs in the investigation
16 and enforcement of this matter in the amount of two-thousand-four-hundred dollars (\$2,400).
17 Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with
18 the payments to be completed no later than six months prior to the end of the probation term.
19 Respondent shall make the check or money order payable to the CA Board of Occupational
20 Therapy and shall indicate on the check or money order that it is the cost recovery payment for
21 Case No. OA 2008-27. Any order for payment of cost recovery shall remain in effect whether or
22 not probation is tolled. Any period of non-practice by Respondent shall not relieve Responder of
23 her obligation to reimburse the Board for its costs. Probation shall not terminate until full
24 payment has been made. Failure to make payments in accordance with any formal agreement
25 entered into with the Board or pursuant to any Decision by the Board shall be considered a
26 violation of probation.

27 The Board may conditionally renew or reinstate, for a maximum of one (1) year, the license
28 of any respondent who demonstrates financial hardship. Respondent shall enter into a formal

1 agreement with the Board to reimburse the unpaid costs within that one (1) year period.

2 Except as provided above, the Board shall not renew or reinstate the license of any
3 respondent who has failed to pay all the costs as directed in a Decision.

4 12. **Violation of Probation.** If Respondent violates probation in any respect, the Board,
5 after giving Respondent notice and opportunity to be heard, may revoke probation and carry out
6 the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed
7 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
8 is final, and the period of probation shall be extended until the matter is final.

9 13. **Completion of Probation.** Upon successful completion of probation, Respondent's
10 license will be fully restored.

11 14. **Chemical Dependency Support/Recovery Groups.** Within five (5) days of the
12 effective date of the Decision, Respondent shall begin attendance at a chemical dependency
13 support group (e.g., Alcoholics Anonymous, Narcotics Anonymous) at least once per week.
14 Verified documentation of attendance shall be submitted by Respondent with each quarterly
15 report. Respondent shall continue attendance in such a group for the duration of probation, unless
16 notified by the Board that attendance is no longer required.

17 15. **Abstain From Controlled Substances.** Respondent shall completely abstain from
18 the personal use or possession of controlled substances, as defined in the California Uniform
19 Controlled Substances Act, and dangerous drugs as defined in sections 4021 and 4022 of the
20 Business and Professions Code, except when lawfully prescribed by a licensed health care
21 practitioner legally authorized to do so and as part of a documented medical treatment.

22 Within ten (10) days of the date any medication is prescribed, Respondent shall have sent
23 to the Board, a written report prepared by the prescribing health care professional, which shall
24 identify the following: (i) the medication; (ii) the prescribed dosage; (iii) the date on which the
25 medication was prescribed; (iv) the date on which the medication will no longer be required;
26 (v) Respondent's prognosis; and (vi) the effect of this medication on the recovery plan, if
27 appropriate.

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1 16. Abstain From Use of Alcohol. Respondent shall completely abstain from the use of
2 alcoholic beverages during the period of probation.

3 17. Submit Biological Fluid Samples.

4 Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon
5 request by the Board or its designee. Respondent shall be randomly drug tested at least 104 times
6 per year for the first year and at any time as directed by the Board. After the first year, licensees,
7 who are practicing, shall be randomly drug tested at least 50 times per year, and at any time as
8 directed by the Board.

9 Drug testing may be required on any day, including weekends and holidays. The
10 scheduling of drug tests shall be done on a random basis, preferably by a computer program.

11 Respondent shall be required to make daily contact to determine if drug testing is required.

12 Licensees shall be drug tested on the date of notification as directed by the Board.

13 Specimen collectors must either be certified by the Drug and Alcohol Testing Industry
14 Association or have completed the training required to serve as a collector for the U.S.
15 Department of Transportation. Specimen collectors shall adhere to the current U.S. Department
16 of Transportation Specimen Collection Guidelines. Testing locations shall comply with the Urine
17 Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless
18 of the type of test administered. Laboratories shall be certified and accredited by the U.S.
19 Department of Health and Human Services. Collection of all specimens shall be observed.

20 Prior to vacation or absence, alternative drug testing location(s) must be approved by the
21 Board.

22 There will be no confidentiality in the test results; positive test results will be immediately
23 reported to the Board and the Board will inform Respondent's employer. Failure to appear for
24 biological testing will be considered a positive test result, unless Respondent provides acceptable
25 and timely documentation substantiating a valid reason for failing to appear.

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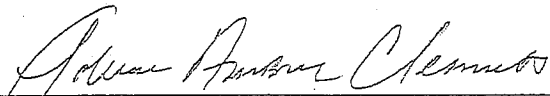
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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Occupational Therapist Assistant Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Occupational Therapy.

DATED:

5/3/10


SOLENA AMBER
Respondent

ENDORSEMENT

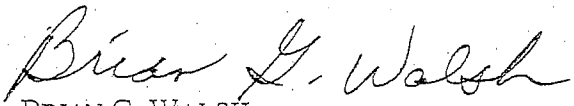
The foregoing Stipulated Settlement and Disciplinary Order are hereby respectfully submitted for consideration by the California Board of Occupational Therapy of the Department of Consumer Affairs.

Dated:

April 29, 2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General


BRIAN G. WALSH
Deputy Attorney General
Attorneys for Complainant

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